



Good morning Chairman Warner and Members of the Committee. I am pleased to be here this morning on behalf of the U.S. Election Assistance Commission (EAC) to discuss the responsibility EAC has in supporting the states and local governments in serving military and overseas voters.

We are here today to discuss a very important segment of our electorate, military and overseas citizens. This group of voters, which many estimate to be over 3 million Americans, has very specific and unique needs in comparison to voters who have the ability to vote in the precincts that are just blocks from their homes. Members of the armed services are often separated from their home polling places by time and great distances. And, overseas citizens have left their home land to serve their country in various governmental capacities, or they are out of country for business, family or other reasons. None of these Americans have left behind their right to vote and their ability to help make decisions about the government of their country of citizenship. Both of these groups are important to our democracy, their votes are important to our elections, and it is imperative that we take steps to assure that their votes are cast and counted. However, the distances that separate these voters from their election jurisdictions cannot easily be bridged by our current election processes and procedures. At EAC, we are working to understand the needs of military and overseas voters and to help election officials develop practices and procedures that address those needs.

EAC'S ROLE IN MILITARY AND OVERSEAS VOTING

EAC is a bipartisan commission consisting of four members: [Paul DeGregorio](#), chairman; [Donetta Davidson](#); and [Gracia Hillman](#). There is currently one vacancy on the Commission. The EAC was established by the Help America Vote Act (HAVA). HAVA was a comprehensive piece of election reform legislation that charges election officials at the state and local level with implementing improvements to voting technology, provisional voting, voter registration management, voter identification, and information provided to voters. However, HAVA did more than prescribe these changes. Congress, through HAVA, has appropriated \$3.1 billion for states to implement HAVA's election reforms. EAC was given the responsibility of distributing those funds to states and providing guidance to states in the implementation of these new election administration practices. In addition to responsibilities regarding HAVA's requirements, EAC was also charged with assuming the duties of administering the National Voter Registration Act (NVRA) and collecting information and conducting studies of election administration under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).

In 2004, EAC began its work on military and overseas voting by working with the Federal Voting Assistance Program (FVAP) to produce a set of best practices. In addition, in 2004, EAC for the first time sought to collect information from all 50 states, the District of Columbia, and the four territories on the number of ballots that were sent to and the number of ballots that were returned by military and overseas citizen voters. In 2005, EAC continued its work with election officials to implement the requirements of HAVA that will impact all voters, including members of the military and overseas citizens. This work included issuing guidance on the



implementation of statewide voter registration databases and developing standards for voting systems. Since its inception, the EAC has also met on a continuing basis with various groups who represent the interests of military and overseas voters. Most recently, EAC conducted a public meeting in St. Louis, Missouri that focused on the needs of military and overseas citizen voters. In 2006 and 2007, EAC will continue its work to support states in administering elections involving military and overseas citizen voters by collecting information on the participation of members of the military and overseas citizens in the November 2006 election and by conducting a study of electronic means that can be used to facilitate a faster turn around time in sending out and returning ballots.

THE MILITARY AND OVERSEAS VOTING SYSTEM

Military and overseas citizen voting, just like domestic voting, is conducted through our distributed system of election administration. There are a handful of Federal laws that protect the rights of citizens in voting and that govern certain portions of the administration of Federal elections. These laws include the Voting Rights Act, the Accessibility to Elderly and Handicapped Act, the National Voter Registration Act, the Uniformed and Overseas Citizens Absentee Voting Act, and the Help America Vote Act. The gaps left by these laws are filled by state laws, procedures and practices, including laws that set the time for printing absentee ballots, the means by which absentee voting is conducted, and the procedures for counting absentee ballots.

By and large, the current system of military and overseas voting is conducted by mail. Service members and overseas citizens must request a ballot by mail, must be mailed a ballot for voting, and must return that ballot by mail for counting – a process that takes at least 45 days. EAC has examined the current system of voting by researching available resources on the topic, talking to groups that represent affected voters, collecting information about voter participation through its 2004 UOCAVA Survey, and holding a public hearing on the topic in September 2006.

UOCAVA Voters Are Frequently Disenfranchised

In every election, members of the military and U.S. citizens living overseas are not able to cast timely ballots because of the excessive amount of time that it takes to complete the voting process. According to an informal study of local election officials conducted by the National Defense Committee, disenfranchisement of overseas military voters for the 2004 presidential election approached 24 percent. Another study involving non-military overseas voters indicated that they are also being disenfranchised due to problems with ballot distribution. According to the Overseas Vote Foundation, 19 percent of overseas voters who responded to a post-2004 Election Survey never received the ballots that they requested and another 24 percent received ballots too late to have them returned and counted. The EAC's 2004 UOCAVA Survey generally supports the conclusion of these studies.



We find this level of disenfranchisement unacceptable. A significant portion of this percentage is composed of overseas military voters who simply did not have enough time to vote either because they never received their ballot, received it too late, or couldn't return their ballot by the required deadline. Deployed military voters are moving targets rarely staying in one place for very long, which makes it extremely difficult to ensure that they are going to get a ballot in a timely fashion. This fact combined with the late primaries in many states and late absentee ballot distribution creates an almost impossible time frame for the voter to receive and return their ballot.

The Help America Vote Act requires states to report the number of ballots transmitted to and returned by UOCAVA voters. It further requires that EAC develop a tool or form for the collection of that data. In 2004, EAC conducted the first comprehensive survey of the 50 states, the District of Columbia, and four territories regarding their practices in sending and receiving ballots from members of the military and overseas citizens. A comprehensive survey of this sort had never been administered in all U.S. election jurisdictions. In the past, FVAP has conducted a similar survey from a sample of election jurisdictions and extrapolated those responses to give a picture of how military and overseas voting was being conducted throughout the country.

The survey showed that in every state there were more UOCAVA ballots sent than returned.

State	UOCAVA Absentee Ballots Sent*	UOCAVA Absentee Ballots Returned*
AK	14,574	9,839
AL	8,005	4,234
AR	5,173	2,539
AZ	12,046	8,282
CA	62,468	No data
CO	10,339	6,669
CT	6,045	4,489
DC	2,532	1,722
DE	1,811	1,273
FL	122,194	93,524
GA	16,690	13,216
HI	3,862	2,492
IA	5,343	4,920
ID	4,275	3,874
IL	30,556	26,639
IN	8,980	6,811
KS	6,564	5,084
KY	6,234	4,912
LA	12,899	8,631



State	UOCAVA Absentee Ballots Sent*	UOCAVA Absentee Ballots Returned*
ME	3,410	2,649
MD	12,916	11,306
MA	125,031	111,017
MI	13,583	9,916
MN	12,322	8,757
MS	2,779	1,683
MO	15,477	9,006
MT	4,721	3,490
NE	3,867	2,775
NV	5,699	4,420
NH	4,516	3,727
NJ	14,256	8,475
NM	519	348
NY	55,183	43,699
NC	18,063	11,996
ND	1,587	1,117
OH	14,527	11,768
OK	7,682	5,737
OR	18,752	14,307
PA	36,051	30,042
RI	21,498	19,046
SC	168,814	157,990
SD	3,823	3,288
TN	19,635	16,609
TX	88,847	66,374
UT	4,598	3,817
VT	1,733	1,340
VA	29,646	24,463
WA	37,198	30,446
WV	4,712	3,745
WI	10,275	7,146
WY	3,123	2,594
AS	326	284
GU	No Response	No Response
PR	No Response	No Response
VI	No Response	No Response

*Some State numbers may reflect total absentee ballots sent and received.
(UOCAVA and Non-UOCAVA).



EAC learned a great deal from conducting this survey in 2004. Most importantly, EAC found that many jurisdictions are not tracking how many ballots are sent to and received from members of the military or overseas citizens, as required by HAVA. This reality is due to a number of factors. First, some states do not distinguish between absentee ballots for these citizens and absentee ballots for state-side, non-military voters. Second, some did not track the exact number of ballots that were transmitted to military and overseas voters. Third, states have different ways of defining key terms that affect the questions that were asked in the survey. Last, some states did not respond at all to the survey for one or more reasons. EAC produced a report based upon the responses that it received from the states in response to the 2004 survey. That report is available on EAC's website, <http://www.eac.gov/docs/UOCAVASurvey%20Report%20-%20Final%203-3-06.doc>.

Using experience gained from the 2004 survey, EAC worked with the National Association of Secretaries of State and other organizations of election officials to promote more accurate data collection in 2006. In addition, the EAC established a working group to help develop its survey questions for the 2006 Federal elections. EAC is currently taking comments on its draft survey, which is available on EAC's website, http://www.eac.gov/eav_survey.asp

Challenges for UOCAVA Voters

Members of the military face unique challenges when attempting to cast a ballot. First, requests for ballots and ballots themselves must be transmitted using two mail systems, the U.S. Postal Service and either the Army Post Office or Fleet Post Office. Second, while ballot request forms are valid for four years, members of the military are frequently transferred, deployed or restationed. Third, for members of the Armed Services who are deployed in forward areas, access is sometimes limited to fax machines and computers that may expedite the voting process. On the contrary, U.S. citizens living overseas are often less transient and have access to technology that may be used to expedite the voting process. However, they still face using a slow international mail system to transmit requests for and actual ballots. In addition, state laws that require notarization of ballot request forms require overseas citizens to go to the U.S. Embassy in their countries. Unless the overseas citizen lives in the area of the Embassy, he or she must travel to the Embassy on a day when an appointment is available and wait to have the ballot request form notarized.

On September 21, 2006, EAC conducted a public meeting in St. Louis, Missouri, where it focused on issues related to military and overseas voting. A panel of speakers including representatives of FVAP, organizations representing the armed services and overseas citizens, and state and local election officials testified about the problems and solutions surrounding registering, distributing ballots, and receiving voted ballots from this group of voters. The complete testimony for each of these panelists is available on the EAC web site, http://www.eac.gov/public_meeting_092106.asp. Several salient points were gleaned from these presentations:



- The current voting process for military and overseas citizens is not working;
- Members of the military and overseas citizens have very different issues, needs, and resources when it come to voting;
- The voting process requires an average of 45 days for a military member or overseas citizen to request, obtain, vote and return a ballot; and
- The current methods for reducing excessive delays in requesting, transmitting, and receiving ballots from members of the military and overseas citizens are merely temporary solutions to a much larger problem.

Representatives from FVAP and state and local election officials testified about the processes that are in place to reduce the amount of time needed to request, receive, vote, return, and count a UOCAVA ballot. The Department of Defense first introduced electronic transmission service (ETS) to the UOCAVA voting process in 1990. Military voters who were deployed to the Persian Gulf region could use a fax to return their ballots. Since that time, the Department of Defense has attempted several other projects to increase the use of technology in voting, including the ability to email election materials and ballots. However, the receptiveness of the states to these methods has been limited:

- 12 states allow a voter to submit a request for an absentee ballot via email;
- Six states allow UOCAVA voters to submit a registration application via email;
- 12 states allow UOCAVA voters to receive a blank ballot via email;
- Eight states allow UOCAVA voters to return a voted ballot via email;
- 35 states allow UOCAVA voters to receive a blank ballot via fax; and
- 26 states allow UOCAVA voters to return a voted ballot via fax.

States often require a special order to permit the use of these forms of technology in UOCAVA voting. Thus, faxing ballots is only possible to forward areas or when a special order is issued by the state's governing authority. Other states have laws that are not consistent with the transient nature of military voters. For example, it is not uncommon to have ballots returned as undeliverable when a military voter has been deployed. Some states require that these voters' requests, generally valid for four years, be cancelled immediately. Many local election jurisdictions continue to require paper ballots, the U.S. Postal Service and manual signatures. These methods are aimed at maintaining the security and authenticity of the voting process, ensuring that the UOCAVA voter is, in fact, eligible.

States set the dates for primary elections and the distribution of ballots. Oftentimes the dates of the primary election dictate the length of time that a UOCAVA voter has to request, receive, and return a voted ballot. And, even states that have early primaries can have laws that dictate a late date to finalize a general election ballot. So, in states with late primaries and states that finalize their ballots close to a general election, UOCAVA voters have shortened and often times impossible windows in which to participate in a general election. In locations where disputes over the names of candidates on the ballot are ongoing, the printing of ballots can be further delayed until the suits are resolved. When delayed printing of ballots impacts the ability to timely transmit UOCAVA ballots, the Department of Justice has had to intervene with the states



to extend the dates when UOCAVA ballots can be received. With a UOCAVA voting process that takes an average of 45 days to complete, states that continue to hold late primary elections or finalize their ballots less than 55 days before the general election make it very difficult for UOCAVA voters to receive a ballot, much less, vote. State laws also vary on when ballots must be received in order to be counted. Some states require all UOCAVA ballots to be present on Election Day, while others permit the counting of these ballots even if they are received several days after the election. Because UOCAVA ballots are transmitted postage-free, it is often difficult for states to determine when the ballot was actually sent.

Proposed Changes to UOCAVA Voting

EAC is working to find solutions. In September of 2004, the EAC in conjunction with FVAP released a report on the "Best Practices for Facilitating Voting by U.S. Citizens covered by UOCAVA." The EAC recognizes that UOCAVA ballots are sent and received by the 6700 local election authorities in the United States, and it is there where UOCAVA voters must ultimately be served. Each local election jurisdiction is also overseen by a state election authority that has certain responsibilities under state and federal law to serve the voters in their state. Thus, this report represents a list of suggestions made to the states to help them and their local election authorities better serve UOCAVA voters across the world.

First, the EAC recommended the mailing of absentee ballots at least 45 days prior to the deadline for receipt of voted absentee ballots. Studies have shown that 45 days is the ideal length of time for voters to be sent, receive, and return the ballot. While many states allow for this 45-day period, a significant number do not mail ballots out until 30 days prior to the election. Inadequate ballot transit time through the mail is the primary obstacle to timely delivery of absentee ballots to UOCAVA voters. In order to meet this 45-day timeline, states should consider moving up their primary election date. In several states the primary election is at such a late date that it is impossible to create, print, and send the ballots for the general election 45 days prior to the election.

To further combat this problem of ballot access states should provide a state write-in absentee Ballot to ensure UOCAVA citizens without access to regular mail service to cast a ballot. States should consider automatically mailing these write-in absentee ballots if regular ballots are not available at least 45 days in advance of an election.

Second, states should expand the use of fax and email to distribute absentee ballots to overseas voters more quickly. The ease and accessibility of email is ideal for UOCAVA voters particularly those military personnel on the frontlines who often only have access to the internet and only for a limited time.

Also, states need to continue to work with local post offices to speed up the ballot distribution process in order to further increase the amount of time overseas voters have to submit their ballots.



Third, states need to perform an internal survey to ensure that local jurisdictions are in compliance with state law for mailing absentee ballots to UOCAVA citizens. In conjunction with this internal survey states need to ensure that local election offices are aware of UOCAVA issues arising in their jurisdiction. FVAP offers training sessions for local election officials at state conferences, as well as providing a special section on their website for local election officials to reference. FVAP also distributes a monthly memo to state and county election officials on UOCAVA-related issues.

The EAC also recommended that local jurisdictions create a specific point of contact for UOCAVA voters to take their questions and concerns to. This would allow local jurisdictions to better serve UOCAVA voters while keeping track of UOCAVA specific issues that arise.

Fourth, states need to prepare a UOCAVA voter guide for publication on their website and in hard copy to distribute to voters. This does not need to be an expensive, time-intensive voter guide. It can be as simple as a single information page, like the ones used in Minnesota and Nebraska. The guide needs to simply provide jurisdiction-specific UOCAVA procedures and local election official contact information. States also need to update their election websites to include procedures for UOCAVA citizens to follow specific to that state. This is essential because often for overseas voters the internet is the fastest and most accessible source of information.

Finally, states that require postmarking on the ballot return envelope should consider using the date the voter provides on the envelope with the voter's signature as evidence of when the voter cast the ballot. If necessary the state may require the voter to sign an oath attesting to the truth and accuracy of the information provided. This will eliminate the problem of a ballot return envelope not being properly postmarked or the postmark being difficult to read and therefore possibly discarded or not counted.

THE FUTURE OF MILITARY AND OVERSEAS VOTING

The current methods suggested or in place to reduce the amount of time that it takes to request, receive, cast and return a ballot do not address the root of the problem. While electronically transmitted ballots may save time, this does not address the time involved in requesting or returning that ballot. Similarly, electronically transmitting ballots does not address the fact that the transient nature of military life makes finding the voter complicated. The ability to return a ballot by fax may also save time in the voting process, but voters who use this method forfeit the privacy of their ballot.

The implementation of technology, alone, will not solve the problems of military and overseas citizen voting. This is a complex problem that requires rethinking the way that we as elected and election officials serve this important constituency, the way that we use available resources, and the ways that we can leverage technology to create better solutions. The Department of Defense



and Department of State already have vast resources in place in countries all over the world. For example, every military unit has a voting assistance officer. Similarly, there are Embassies in virtually every country with local officials, called wardens, in districts of those countries.

Every day financial institutions around the world use secure technology to transmit billions of dollars. The U.S. military uses secure technology to transmit sensitive and, even, classified information. With the availability of these resources and existing and strategically located personnel we could do more to ensure that UOCAVA voters have the ability to participate in U.S. elections.

EAC has contracted for a study of internet voting and the transmission and receipt of absentee ballots for UOCAVA voters. This study will include reviewing the practices of states and local jurisdictions that use technology to transmit or accept ballots and may allow internet voting. In addition, EAC will survey UOCAVA voters who have participated in some form of electronic voting. Through this study we hope to more fully understand the problems, resources and potential solutions involved in military and overseas citizen voting.

EAC has also been tasked with developing standards for Internet voting that Department of Defense can use in developing an Internet-based voting system for UOCAVA voters. Introducing technology seems like a simple solution to the problem; however there will be substantial resistance to a technology-only fix for military and overseas voting. It is important to remember that segments of our society have a healthy distrust of the security of electronic voting, particularly when voting systems or methods are connected to the Internet. Thus, it is critical that we address issues such as how an Internet-based voting system will provide confidence to the public that it is not only secure, but also that the person casting the ballot using that system is an eligible voter.

CONCLUSION

Over the past four years, significant changes have been made to our election administration system. New voting systems have been purchased and implemented. Each state has adopted a single list of registered voters to better identify those persons who are eligible to vote. Provisional voting has been applied across all 50 states, the District of Columbia and four territories. However, one thing has not changed. Elections are a human function at home or overseas. There are people involved at every level of the election process, from creating the ballots, to transmitting the ballots, to casting the votes.

HAVA contemplated the need to modernize election administration, and we have seen progress serving domestic voters. However, we must turn that same level of attention to serving voters who protect the democracy that we cherish by ensuring that they can participate in our elections.

Mr. Chairman, thank you for the opportunity to address the Committee today. I will be happy to answer any questions that you may have.
